



PATENT  
Customer No. 22,852  
Attorney Docket No. 05725.1263-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Xavier BLIN et al. )  
Application No.: 10/785,093 ) Group Art Unit: 1614  
Filed: February 25, 2004 ) Examiner: C. Rae  
For: COSMETIC COMPOSITION ) Confirmation No.: 8509  
COMPRISING A DISPERSION OF )  
AT LEAST ONE POLYMER )  
PARTICLE AND AT LEAST ONE )  
COMPOUND PLASTICIZING THE )  
POLYMER )

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE TO RESTRICTION REQUIREMENT**

In reply to the Office Action dated July 2, 2007, Applicants submit the following remarks. The period for response has been extended five months to January 2, 2008 by the accompanying petition and fee.

**A. Restriction Requirement**

In the Office Action, the Examiner required restriction under 35 U.S.C. § 121 between the following five groups of claims:

Group I. Claims 1-107 and 114, drawn to a composition comprising a) at least one liquid fatty phase, b) a dispersion of at least one polymer particle dispersed in the liquid fatty phase, and c) at least one compound chosen from aliphatic/aromatic polycarboxylic acids and alcohols, classified in class 528, subclass 176;

Group II. Claims 108-110, drawn to a method of cosmetic care or makeup, producing a polyesteramine/polyesteramine composition, classified in class 435, subclass 114;

Group III. Claims 111 and 112, drawn to a method making a composition, classified in class 435, subclass 114; and

Group IV. Claim 113, drawn to a make up product, classified in class 528, subclass 176.

Although Applicants disagree with the restriction requirement, to be responsive Applicants elect to prosecute Group I, i.e., claims 1-107 and 114, without traverse.

#### **B. Election of Species Requirements**

Applicants also acknowledge the Examiner's requirement for the election of species presented at pages 5-7 of the Office Action. The Examiner asserts that the present application contains claims directed to the following patentably distinct hydrous and anhydrous compositional species.

On July 16, 2007, Applicants' representative initiated a telephonic interview to clarify the species requirement with the Examiner. Applicants' thank the Examiner for his clarification and time. A summary of the Examiner's species requirement in view of the telephonic interview is provided below:

- 1) either a) an anhydrous composition (see claim 75), or b) a hydrous composition, and also either c) without a second composition, or d) with a second composition (see claim 114),
- 2) a single specific composition species wherein the form (e.g., lipstick) as well as each active ingredient is specified (e.g., Example 2 or 3 of the specification); however the percentages of each ingredient need not be specified,
- 3) a polycarboxylic acid compound species (see, e.g., claims 8, 15, 17 and dependent claims),
- 4) an alcohol compound species (see, e.g., claim 5 and its dependent claims),
- 5) a polymer particle, e.g. polyurethanes,
- 6) a stabilizer, e.g. block polymer, graft polymers, random polymers,

- 7) a gelling agent, e.g. styrene-ethylene/propylene-styrene copolymer,
- 8) a wax, e.g. ethylene polymer, and
- 9) a composition product, e.g. lipstick

See Office Action at 5-6.

Furthermore, if a composition comprising a compound of the recited alcohol of formula R<sub>1</sub>OH of claim 5, or the recited dicarboxylic acid of claim 8, or the recited tricarboxylic acid formula of claim 17, the Examiner requires:

**10)** election of a specifically defined compound wherein each variable/optional group is provided with respect to R<sub>1</sub>, n, and R, respectively.

Finally, the paragraph entitled "Additional Election of Species Regarding Group III" at page 6 of the Office Action was acknowledged by the Examiner to be in error.

The election of species requirement is respectfully traversed. However, to be fully responsive to the election requirement, Applicants elect species 1) an anhydrous composition to be examined.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: January 2, 2008

By:

  
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